

# Exhibit I

In The Matter Of:

***Ebert vs. C.R. Bard***

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***Robert McMeeking, Ph.D.***

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1 crack doesn't get created that ultimately leads to the  
2 fatigue failure of the device.

3 Q. Let's break that down a little bit.

4 Other than the -- what you've testified to  
5 before about the -- the observed difference of 5 microns  
6 to 20 microns on the radius of the sheath curve?

7 A. Yes.

8 Q. Right?

9 Other than observing that, by the micrographs  
10 from Dr. Ritchie or Dr. Fasching, correct?

11 A. Yes.

12 Q. You had not, yourself, looked at what the  
13 differences are in the weld?

14 A. We have not cut open a filter to look at that.

15 Q. Okay. You have never been on the end of the  
16 manufacturing line at Bard to see what those filters  
17 looked like when they came off?

18 A. No, I have not.

19 Q. You do not know what the manufacturing controls  
20 are?

21 A. I've read some of the documents that describe  
22 those, but I would not claim to know in detail what  
23 those controls are.

24 Q. Okay. So really, you don't know how  
25 uncontrolled or how variable the filters coming off the

1 line were for the Recovery and G2?

2 A. I do not know --

3 MR. BUTTON: Objection. Form.

4 THE WITNESS: -- in detail, or in specifics;  
5 however, I do know that the calculations that Bard and  
6 its associates did, the finite element calculations,  
7 they made a variety of assumptions about the boundary  
8 conditions that are -- that connected the wires to the  
9 cap. And that suggests to me that they realized that  
10 there was a variability in the constraint of the weld  
11 imposed on the wires, and that that was something they  
12 were accounting for in their calculations.

13 MS. DALY: Q. But with respect to that,  
14 you've done no modeling or calculations to look at  
15 those different variabilities and see how it comes  
16 out for stresses and strains, have you?

17 A. We did calculations, but didn't report them.  
18 So for example, we've -- well, in the preliminary  
19 scoping calculation that is in the report, there is a  
20 parameter that you can choose different values for that  
21 would represent how far up into the cap that the  
22 constraint of the weld applies.

23 And although I didn't do the calculation, and  
24 report the results in the report, that formula can be  
25 used in the way I described to investigate the effect of

1     nitinol parts are very precise and controllable. And  
2     yet, as I said earlier today, when I inspected one of  
3     her micrographs, I could see that the positioning of the  
4     arms and the legs was not regular. In that the spacing  
5     between some of the wires is different from the spacing  
6     between other ones. And that seems to confirm that the  
7     location of the arms and the legs where they exit the  
8     sheath is not a well-controlled aspect of the shape and  
9     size of the device.

10           Q. Except that with that exemplar that you are  
11     talking about, you don't know where it had been -- where  
12     it had been through, who had inspected it? You don't  
13     know anything of that?

14           A. I don't know that. But whatever happened to it  
15     either caused the arms and legs to move, or they were in  
16     that position already. Whatever was the case, that's  
17     not a good situation. Because it's not -- it's not --  
18     it's not something that conforms exactly to the design  
19     specifications of the filter, and therefore it's  
20     something that could cause variability in the way that  
21     the strains and stresses arise in the filter, and  
22     therefore the way that the filter experiences fatigue  
23     behavior when it's cycled in some way when it's in the  
24     vena cava.

25           Q. And I'm just saying, you don't know if that

1 exemplar is an example of how any filter would have  
2 looked directly off the line?

3 **A. No, I don't know that.**

4 Q. Okay.

5 **A. That's the -- that's it for --**

6 Q. All right.

7 **A. -- for --**

8 Q. For Fasching.

9 **A. -- for Fasching.**

10 Q. Let's do this: I want to do -- Rackliff, you  
11 have a couple paragraphs of Rackliff.

12 **A. Okay.**

13 Q. And then I want to ask you to go through your  
14 criticisms of Briant and Kaar.

15 **A. Okay.**

16 Q. And I want to finish Rackliff and take a  
17 two-minute break and come back and do that.

18 **A. Okay.**

19 Q. So let's go to Rackliff. This will be a  
20 separate thing for Rackliff.

21 **A. Okay.**

22 Q. In your Rackliff report -- do you have it with  
23 you?

24 **A. Yes, I do.**

25 Q. The first place that I see a new paragraph is